

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

JAMES BENJAMIN WHITE,

Petitioner,

vs.

SALT LAKE COUNTY, et al.,

Respondents.

ORDER
AND
MEMORANDUM DECISION

Case No. 2:07-CV-930 TC

Petitioner James Benjamin White, proceeding *pro se*, has filed this application under 28 U.S.C. § 2254 for a writ of habeas corpus seeking the dismissal of two Utah state criminal cases against him. Those cases are Utah Criminal Case No. 011900818, for felony failure to pay child support and Case No. 011909262, for felony aggravated assault. Mr. White states several grounds for his motion, including denial of rights under the Interstate Agreement on Detainers and the Speedy Trial Act.

Looking to Case No. 011909262, the clerk of the state court informed this court that this case was dismissed against Mr. White on July 16, 2008. Consequently, Mr. White's motion is DENIED as moot in relation to this case.

Turning to Case No. 011909818, the court finds that abstention under Younger v. Harris, 401 U.S. 37 (1971) is appropriate. Younger teaches that federal courts are not to intervene in state court prosecutions except in "extraordinary circumstances, where the danger of irreparable loss is both great and immediate." Id. at 45 (citation omitted). Mr. White has not shown any

extraordinary circumstances that justify interfering with his ongoing state prosecution here.

While the criminal case against Mr. White began seven years ago, that fact alone does not strike the court as extraordinary, especially since Mr. White appears to have been incarcerated in Colorado for much of that time. In any event, Mr. White's trial on this charge is set to take place soon, on September 30-October 1, 2008. Accordingly, the court abstains from hearing the instant action in favor of the court proceedings and dismisses Mr. White's petition without prejudice.

See Dolack v. Allenbrand, 548 F.2d 891, 894-95 (10th Cir 1977) (upholding dismissal of *habeas corpus* petition seeking to stop a state prosecution).

ORDER

For the above reasons, Mr. White's § 2254 petition is DENIED as moot as to Utah Criminal Case No. 0011909262 and DISMISSED without prejudice as to Utah Criminal Case No. 011909818.

SO ORDERED this 21st day of July, 2008.

BY THE COURT:



TENA CAMPBELL
Chief District Judge